

ARTICLE 1.4 INTERPRETATION, ENFORCEMENT, AND PENALTIES

Section 1.4.1 Interpretation of Land Development Regulations

(A) **Building Regulations**: All questions of interpretation of Chapter Seven, Building Regulations, shall first be presented to the Chief Building Official. Such questions shall be presented to the Board of Adjustment only upon an appeal from the decision of the Chief Building Official. [Amd. Ord. 47-07 10/16/07]

(B) **Development Standards, Private Property**: All questions of interpretation of Article 4.6, Supplemental District Regulations; the application of development standards contained within individual zoning districts; the application of standards contained within overlay and environmental management districts, Article 4.5; requirements imposed under Section 4.3.3 for Special Uses; and Article 1.3, Nonconforming Uses, Lots, and Structures, shall first be presented to the Chief Building Official unless there is a specific delegation for the interpretation of application of the requirements elsewhere. Such questions shall be presented to the Board of Adjustment only upon an appeal from the decision of the Chief Building Official.

(C) **Uses**: All questions of interpretation of the allowable or categorization or definition of uses shall first be presented to the Director. If the Director determines that a requested use is not allowed within a specific zoning district, a letter requesting a "determination of similarity of use" of a proposed use with permitted and conditional uses listed within a specific zoning district may be brought to the Planning and Zoning Board for said determination. [See 4.3.2(C)]

(D) **Infrastructure and Public Property**: All questions of interpretation of Chapter 6, Infrastructure and Public Property shall first be presented to the City Engineer. If the applicant desires review of the interpretation of the City Engineer, such questions shall be presented to the City Commission either as an appeal from the decision of the City Engineer or as a request for waiver when the item is associated with a development application.

(E) **Graphics**: All graphics and drawings are supplemental to the text and in the event of a conflict the text shall govern. [Amd. Ord. 21-04 5/4/04]

Section 1.4.2 Notice of Violations:

(A) **Private Property**: The Chief Building Official and the Code Compliance Administrator shall enforce these Land Development Regulations as they pertain to the placement of structures and improvements upon and the use of private property.

SECTION 1.4.2 (B)

(B) **Public Rights-of-Way and Easements:** The City Engineer and the Code Compliance Administrator shall enforce these Land Development Regulations as they pertain to the placement of improvements and the use of public right-of-way, or easements which are dedicated to the public as general utility easements or as specific utility easements, or easements which are dedicated to the City for any general or specific purpose.

(C) **Method and Actions:** If the Chief Building Official, the City Engineer, or the Code Compliance Administrator finds that such provisions of these Regulations are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal uses of land, rights-of-way, easements, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by these Regulations to insure compliance with, or to prevent violations of its provisions.

Section 1.4.3 **Enforcement:**

(A) **Code Enforcement Board/Hearing Officer and County Court:** When The City Code Enforcement Board/Hearing Officer and County Court in Palm Beach County shall have concurrent jurisdiction to hear and decide cases seeking compliance with these regulations or an order to correct a violation and when a hearing is sought with respect to an alleged violation, the matter shall be decided by the Code Enforcement Board/Hearing Officer pursuant to Chapter 37 of the City Code. **[Amd. Ord. 55-07 1/15/08]**

(B) A Certificate of Occupancy shall not be issued for any building, or structure, or portions thereof, that fails to meet all applicable requirements of these Land Development Regulations. The use of a building without proper issuance of a Certificate of Occupancy is a violation of Code and shall be grounds for issuance of a stop work order or cease and desist order by the Chief Building Official, and other remedies set forth herein.

(C) Nothing herein shall prevent the City of Delray Beach from taking such other lawful action deemed necessary to prevent or remedy any violation.

(D) The neglect of individually designated historic structures and/or structures located within historic districts shall constitute a “nuisance” violation of the City’s Code of Ordinances pursuant to Section 100.10. **[Amd. Ord. 55-07 1/15/08]**

SECTION 1.4.4

Section 1.4.4 Penalty:

(A) Violation of the provisions of these Regulations, or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses shall constitute a punishable violation. Any person who violates these Regulations, or fails to comply with any of its requirements, may be issued a civil citation pursuant to Section 37.45 of the City Code or a notice of violation pursuant to Chapter 37 of the City's Code of Ordinances, and shall upon conviction thereof, be fined not more than \$500 or imprisoned for not more than 60 days, or both, and shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. **[Amd. Ord. 55-07 1/15/08]; [Amd. Ord. 18-95 4/4/95]**

(B) The owner or tenant of any building, structure, premise, or part thereof, and any architect, agent, builder, contractor, or other person who knowingly commits, participates in, assists in, or maintains such violation, may each be found guilty of a separate offense, and suffer the penalties provided herein.

(C) In addition to any and all other penalties, any person who carries out or causes to be carried out any work in violation of this Section 4.5.1 shall be required to restore the subject improvement, building, site, structure, appurtenance, or landscape feature, either to its appearance prior to the violation or in accordance with its certificate of appropriateness required by the Historic Preservation Board.

(D) Structures that are individually designated as historic or are located in historic districts shall be maintained in a secure and attractive manner. Neglect of historic structures/structures in a historic district shall constitute a "nuisance" violation pursuant to Section 100.10 of the City's Code of Ordinances and shall result in maximum penalties. **[Amd. Ord. 55-07 1/15/08]**

(E) Nothing herein shall prevent the City of Delray Beach from taking such other lawful action deemed necessary to prevent or remedy any violation.

Section 1.4.5 Definitions: For the purpose of these Land Development Regulations, the definitions as contained in Appendix "A" shall apply unless the context clearly indicates or requires a different meaning. Matters of interpretation of meaning fall within the purview of the Chief Building Official. Changes to the wording of definitions and/or the addition or deletion of definitions may be made by the City Commission upon adoption of a Resolution after review and recommendation by the Planning and Zoning Board.